

ORIGINAL

PRESTON EASLEY, ESQ./Cal State Bar No. 108347  
LAW OFFICES OF PRESTON EASLEY  
2500 Via Cabrillo Marina, Suite 106  
San Pedro, California 90731-7724  
Telephone: (310) 832-5315  
Facsimile: (310) 832-7730

ATTORNEY FOR: Plaintiff  
BERT MEYER

FILED IN THE  
UNITED STATES DISTRICT COURT  
DISTRICT OF HAWAII

JAN 17 2006

at 4 o'clock and 26 min. P.M.  
SUE BEITIA, CLERK

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF HAWAII

|                          |   |                             |
|--------------------------|---|-----------------------------|
| BERT MEYER,              | ) | Civil No.: 04-00049 JMS-BMK |
|                          | ) | (In Admiralty)              |
|                          | ) |                             |
| Plaintiff,               | ) |                             |
| v.                       | ) | DECLARATION OF BERT MEYER   |
|                          | ) |                             |
| MATSON NAVIGATION        | ) |                             |
| COMPANY, INC., and       | ) |                             |
| PACIFIC LIVESTOCK, INC., | ) |                             |
|                          | ) |                             |
| Defendants.              | ) |                             |

I, Bert Meyer, declare:

1. I am the plaintiff in the above-entitled action. I could and would testify competently to the facts set forth herein.
  2. I am a longshoreman employed by McCabe, Hamilton & Renny Co., Ltd.
- I was injured aboard the Matson Navigation ship S/S LIHUE at 7:00 p.m. on

October 1, 2002, when I slipped in animal waste and fell through a gap between the grating and the hatchcover on the starboard side of the hatchcover at row 15/16. I had been straddling a similar gap on the aft side of the hatchcover while using a long pole to unlock container cones three containers above me. I had to straddle the gap at the location where the slip began in order to properly position myself under a stuck cone on the three-high container that I was unlocking. I put my left foot on the padeye on the hatchcover, as I had done on numerous prior occasions, and my right foot was on the metal grating. There were animal feces, animal urine, and slime from the animal waste on all horizontal surfaces, including the grating and the hatchcover. I complained about this to Daniel Farney, my Matson Terminals superintendent, prior to the accident. My left foot slipped off the padeye and when I fell my left leg went into the 7 3/8" wide gap between the grating and the starboard (inshore) side of the hatchcover. I became stuck in the gap and I was later rescued by Mr. Farney. I sustained a massive labral tear of the left hip joint and on October 16, 2003, I underwent left hip surgery with Dr. Thomas Kane which consisted of "resection of labral tear and extensive synovectomy." Gaps as wide as the one I fell in are extremely rare.

3. I never considered it unsafe to use the padeye for leverage. Because the three high cone was stuck I had to step on the padeye to get directly under it to pull it out. There could not be any angle on the pole. I have stepped on padeyes on more than 50 prior occasions without incident to perform this procedure. I had to twist the cone out, and then pull it down.

4. I complained about the animal feces and slime before the accident to Dan Farney, my Matson Terminals supervisor, which was the proper procedure. Prior to the accident I did not see any animal tenders and I have no authority over them.

5. Attached hereto as exhibit 1 is a true copy of the transcript of the tape recorded statement that I gave to Heidi Kahlbaum at Frank Gates Acclaim on October 17, 2002.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on January 11, 2006 at San Francisco, CA.

  
BERT MEYER